

REMARKS

Reconsideration of the present application in light of the above amendments and the following remarks is respectfully requested. Claims 1-5, 7-8, 10-12, and 14 are pending. Claims 17-22 and 24-25 are canceled without prejudice to the future filing of one or more continuation or divisional application(s). No new matter has been added.

Nonstatutory Obviousness-type Double Patenting Rejection

The present action rejects claims 1-5, 7-8, 10-12, and 14 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,585,207. While Applicants respectfully disagree with this rejection, nevertheless, and solely to expedite allowance of these claims, a Terminal Disclaimer is filed herewith obviating this rejection. The withdrawal of this rejection and allowance of claims 1-5, 7-8, 10-12, and 14, are respectfully requested.

Rejections under 35 U.S.C. § 102

Claims 17, 22 and 24-25 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by RajBhandary (U.S. Patent No. 5,879,905). Specifically, the Action alleges RajBhandary teaches a recombinant vector comprising a polynucleotide sequence encoding an aminoacyl-tRNA synthetase for a selected amino acid and a polynucleotide encoding a polypeptide molecule of interest, as well as host prokaryotic cells comprising said vectors. Further, the Action alleges that claims 17-18, 20-22, and 24 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Dardel et al. Lastly, claims 17-18, 20-22, and 24-25 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Tao et al.

Applicants respectfully traverse these bases for rejection and submit that the aforementioned references do not anticipate the presently claimed invention because it does not teach each and every element of the claims. Nevertheless, Applicants submit that, solely to expedite prosecution and without acquiescing to any rejection, claims 17-18, 20-22, and 24-25 have been canceled. The canceled claims will be pursued in a timely filed continuation or

divisional application. Accordingly, Applicants submit that these rejections have been overcome and respectfully request withdrawal of the same.

Rejection under 35 U.S.C. § 103

Claim 19 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tao et al. (U.S. Patent No. 6,221,640) in view of Smith et al. (U.S. Patent No. 5,627,033) or Maddon et al. (U.S. Patent No. 5,110,906). Specifically, the Action alleges Tao et al. teach the claimed recombinant vector but do not indicate that the vector contains a sequence encoding dihydrofolate reductase, but allegedly teach other selectable marker genes. Whereas Smith et al., and Maddon et al., allegedly teach that dihydrofolate reductase is a well-known marker used to identify cells. Thus, the Action alleges it would have been obvious to one of skill in the art to choose a dihydrofolate reductase gene as a marker, as in Smith et al. and Maddon et al. with the vector system of Tao et al. in order to identify transformed cells.

Applicants respectfully traverse this rejection and submit that none of the cited references, alone or in combination render the presently claimed vector obvious to one of ordinary skill in the art. Applicants submit that, contrary to the Action's allegations, Tao et al. do not teach the claimed recombinant vector, for the reasons set forth in detail in the previous response. Nevertheless, Applicants submit that, without acquiescing to any rejection but solely to expedite prosecution, claim 19 has been canceled. This claim will be pursued in a timely filed continuation or divisional application. Accordingly, Applicants submit that the grounds for this rejection have been overcome and respectfully request this rejection be withdrawn.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Applicants have made a good faith effort to resolve all issues before the Examiner. In pertinent part, the obviousness-type double patenting issues have been resolved by submission of a terminal disclaimer, while claims with other rejections have been canceled. Accordingly, it is respectfully submitted that all of the claims remaining in the application are believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly

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solicited. If any issues remain that could be solved by a teleconference, the Examiner is encouraged to phone the undersigned at (206)622-4900.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC

A handwritten signature in black ink, appearing to read 'William T. Christiansen', written over a horizontal line.

William T. Christiansen, Ph.D.
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WTC:hh

Enclosure:

Postcard

Terminal Disclaimer

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